

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY  
OF SANTA BARBARA APPROVING A COASTAL  
DEVELOPMENT PERMIT FOR AN APPLICATION  
OF PEAK LAS POSITAS PARTNERS, 900-1100  
BLOCK OF LAS POSITAS ROAD (VERONICA  
MEADOWS SPECIFIC PLAN) (MST99-00608)

WHEREAS, the City accepted an application from Peak-Las Positas Partners, in order to process a request for the following: 1) annexation of the subject property from the unincorporated area of Santa Barbara County to the City of Santa Barbara; 2) a General Plan Amendment upon annexation to add the property to the City's General Plan Map; 3) a Local Coastal Plan Amendment upon annexation to add the property to the City's Local Coastal Plan; 4) Zoning Map and Ordinance Amendments to adopt Specific Plan Number Nine (SP-9) upon annexation; (5) a lot line adjustment; and 6) other related approvals ("Veronica Meadows Project" or "Project");

WHEREAS, the City Planning Commission initiated annexation of the subject parcels separately on November 18, 1993, and February 3, 2000, and held conceptual reviews of the project design then before the Commission (including nine speakers) on February 3, 2000;

WHEREAS, the Planning Commission and the Architectural Board of Review held a joint work session on September 5, 2000, to take input (including comments from nine speakers) and make comments on the Project design concept;

WHEREAS, the Architectural Board of Review held a concept review of the proposed Project on September 25, 2000, and provided comments to the Planning Commission;

WHEREAS, the Planning Commission of the City of Santa Barbara initiated the Specific Plan process for the subject parcels and held a joint meeting with the Architectural Board of Review to review a revised project concept on February 20, 2003, and took comments from twelve members of the public;

WHEREAS, the Planning Commission held a concept review work session for the Project on March 6, 2003;

WHEREAS, the Planning Commission held an Environmental Impact Report (EIR) Scoping Hearing for the Project on October 16, 2003, and took comments from two members of the public;

WHEREAS, the Planning Commission held a duly noticed public hearing to receive comments on the Draft EIR on October 21, 2004, and took comments from twelve people;

WHEREAS, in January 2005, the City of Santa Barbara completed a Final EIR for the project, consisting of the Draft EIR, comments on the Draft EIR, responses to comments on the Draft EIR, and minor revisions to the Draft EIR;

WHEREAS, the City Park and Recreation Commission and the Creeks Advisory Committee held a joint meeting to consider recommendations to the Planning Commission regarding the proposed bridge and creek restoration elements of the Project;

WHEREAS, the Creeks Advisory Committee met on February 9, 2005, and made recommendations to the Planning Commission regarding the proposed bridge and creek restoration elements of the Project;

WHEREAS, the Park and Recreation Commission met on February 23, 2005, and made recommendations to the Planning Commission regarding the proposed bridge and creek restoration elements of the Project;

WHEREAS, the City Transportation and Circulation Committee met on March 24, 2005, and made recommendations to the Planning Commission regarding the proposed bridge for the Project;

WHEREAS, the Planning Commission held a discussion of project issues on April 14, 2005, and nineteen people spoke regarding the Project;

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the Project on July 21, 2005, and eleven members of the public spoke regarding the Project. After substantial discussion, the Planning Commission continued its consideration indefinitely to allow the applicant to make Project revisions in response to Planning Commission concerns;

WHEREAS, on December 1, 2005, the Planning Commission held a duly noticed public hearing and took public input from twenty-four people on the Project, and certified the Veronica Meadows Specific Plan Final EIR ("2005 Final EIR") as a complete, accurate, and good faith effort toward full disclosure and as being reflective of the independent judgment of the City of Santa Barbara under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.);

WHEREAS, on March 8, 2006, the Council of the City of Santa Barbara held a duly noticed public hearing, took public input, and continued its consideration of the Project;

WHEREAS, on March 21, 2006, the Council of the City of Santa Barbara continued its deliberations on the Project, and directed the applicant to prepare an alternative design for the Project;

WHEREAS, the applicant complied with the City Council's directive and prepared and submitted to City staff a conceptual site plan reflecting a revised project;

WHEREAS, the Creeks Advisory Committee met on April 26, 2006, and made recommendations to the City Council regarding the revised site plan and creek restoration element of the Project;

WHEREAS, the Architectural Board of Review met on May 1, 2006, and made recommendations to the City Council regarding the revised site plan for the Project;

WHEREAS, the Park and Recreation Commission and Creeks Advisory Committee held a joint meeting on July 10, 2006, to consider recommendations to the City Council regarding the revised site plan for the Project;

WHEREAS, on August 19, 2006, the first Addendum to the Certified EIR was prepared by City environmental staff. The Addendum considered a smaller Project with 15 homes, access from Alan Road rather than Los Positas Road, a smaller bridge over Arroyo Burro Creek for pedestrian and bicycle traffic only, and a setback area without pedestrian trails along Arroyo Burro Creek. The Addendum evaluated whether the revised Project was within the range considered in the Final EIR and determined it was;

WHEREAS, the Planning Commission held a duly noticed public hearing on August 24, 2006, took public input from thirteen members of the public on the revised site plan for the Project, and offered comments to the City Council;

WHEREAS, on October 3, 2006, the City Council held the required noticed public hearing and took public input from twenty-seven people on the revised Project site plan, and continued consideration of the Project to a future meeting after indicating to the applicant that it preferred the Project as it was presented in March 2008, with either 23 or 25 dwelling units;

WHEREAS, the applicant subsequently submitted two development alternatives to the City Council based on direction from the October 3, 2006 City Council meeting;

WHEREAS, on November 17, 2006, the second Addendum to the Certified EIR was prepared to evaluate two development alternatives developed by the applicant in response to the City Council's request. The Addendum evaluated whether the two development alternatives were within the range considered in the Certified EIR and determined they were;

WHEREAS, on December 12 and 19, 2006, City Council approved the Project and adopted environmental findings pursuant to CEQA;

WHEREAS, on January 29, 2007, the Citizens Planning Association and the Santa Barbara Urban Creeks Council sued the City to overturn the City Council approval of the project;

WHEREAS, in a judgment dated January 9, 2008, the Santa Barbara Superior Court issued its judgment stating that a writ of mandate should issue commanding the City Council to set aside its December 12 and 19, 2006 decisions approving the Project;

WHEREAS, on February 5 and 26, 2008, pursuant to court directive, the City Council for the City of Santa Barbara repealed and rescinded the Project approvals, including certification of the 2005 Final EIR;

WHEREAS, on March 14, 2008, the City prepared a Draft Revised EIR, which it circulated pursuant to CEQA Guidelines Section 15088.5. The City's purpose in preparing the revised EIR chapters was to document the events, project changes, and other information that is pertinent to understanding the issues involved with a re-evaluation of the project. CEQA Guidelines Section 15088.5 provide for recirculation of only the revised sections of the EIR and limitation of further public comment to the recirculated sections;

WHEREAS, on April 17, 2008, the Planning Commission held a duly noticed public hearing to receive comments on the Draft Revised EIR;

WHEREAS, on May 9, 2008, a Final Revised EIR was prepared in accordance with CEQA. The "2008 Final EIR" includes the Draft EIR, the Draft Revised EIR, comments on the Draft EIR and Draft Revised EIR, responses to oral testimony, written comments, e-mail messages, and phone messages on the Draft EIR and Draft Revised EIR, and minor changes to the Draft EIR and Draft Revised EIR;

WHEREAS, only the southernmost portion of the project site lies within the Coastal Zone, and that portion is planned to include Lots 1 through 6, a 20-foot wide private driveway with an adjacent 5-foot permeable path, a 10-foot public pedestrian and bicycle trail, a 5-foot decomposed granite pedestrian path, and a portion of the Arroyo Burro Creek restoration work, all as shown on Figures 3-14 and 4-7 of the 2008 Final Revised EIR (collectively referred to herein as the "Coastal Zone Elements");

WHEREAS, the balance of the Project is outside the Coastal Zone and therefore is not subject to the coastal development permit requirements of the Coastal Act;

WHEREAS, the proposed lot line adjustment will create new lot lines that are entirely outside of the Coastal Zone, and thus no coastal development permit is required for the lot line adjustment;

WHEREAS, Coastal Act § 30604(d) states: “No development or portion thereof which is outside the coastal zone shall be subject to the coastal development requirements of [the Coastal Act] . . . .”;

WHEREAS, Title 14 Cal. Code Regs. section 13050.5 states: “Except for the following circumstances, a coastal development permit shall only be required for a development or those portions of a development actually located within the coastal zone: (a) In the case of any division of land, a permit shall be required only for any lots or parcels created which require any new lot lines or portions of new lot lines in the coastal zone; in such instance, commission review shall be confined to only those lots or portions of lots located within the coastal zone. . . .”;

WHEREAS, the 2008 Final EIR concluded as follows:

- a. “The bridge proposed as part of the Project is located outside the coastal zone on the northern portion of the site. The proposed bridge would, therefore, not directly impact riparian resources in the coastal zone.” (Page 3-69).
- b. With adoption of the recommended Mitigation Measures, the project’s impact on water quality in Arroyo Burro Creek “is considered less than significant (Class III). This conclusion would also apply to the effect of stormwater pollution on aquatic organisms in the creek.” (Page 3-63).
- c. “The proposed Project, with mitigation, would avoid significant impacts to those portions of the creek and riparian habitats in the coastal zone and would ensure their continued productivity of these habitats if the proposed creek restoration is fully and successfully implemented.” (Page 3-68).
- d. “The analysis in the EIR concluded that the proposed creek setbacks, coupled with the EIR mitigation measures, dedicated creek corridor open space, and proposed riparian habitat restoration, would be adequate to protect creek resources and avoid significant impacts. Hence, the project can be found consistent with [LCP Policy 6.10].” (Page 3-70).
- e. “. . . the proposed project, as mitigated, would improve creek and riparian habitats in the area. Additionally, the bank stabilization is designed to minimize, to the extent feasible, the use of rip rap and other hard structures that could potentially impact the biological resources of the creek. The project, as mitigated, is therefore consistent with [LCP Policy 6.11].” (Page 3-70).

WHEREAS, on May 15, 2008, the Planning Commission held a duly noticed public hearing on the 2008 Final EIR to consider its certification;

WHEREAS, on June 17, 2008, the City Council held a duly noticed public hearing on the 2008 Final EIR to consider its certification. After the public hearing, by separate resolution, the City Council certified the 2008 Final EIR and adopted the mitigation measures incorporated therein (see Resolution No. \_\_\_\_\_). At that time, the City Council also determined that the Current 2008 Project Design alternative was feasible and environmentally superior to the project, and adopted that alternative; and

WHEREAS, on June 17, 2008, the City Council considered the effect of the entire Project on coastal resources, including reviewing and considering the analysis of coastal resource issues contained in the 2008 Final EIR.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Santa Barbara as follows:

**Section 1.** Upon the annexation of the Project real property to the City, the City approves a coastal development permit for the Coastal Zone Elements of the Project and makes the following findings:

1. The project enhances public access to the coast by the construction of a public access bridge and road that will provide a safe and convenient connection for residents of the Westside of Santa Barbara to travel through Elings Park, across Arroyo Burro Creek, and to Arroyo Burro Beach. The public access enhancement achieved by this project is certain and clear. In contrast, the possibility that this public access bridge will cause environmental impacts in the coastal zone is speculative and remote, given the extensive creek restoration work that is included as an element of the project.
2. The project is consistent with the policies of the California Coastal Act for the reasons set out in the 2008 Final EIR and the Council Agenda Report dated June 17, 2008.
3. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Municipal Code, for the reasons set out in the 2008 Final EIR.
4. With respect to Coastal Act § 30240 and LCP Policy 6.8, the City Council finds that the project with mitigation measures is consistent with that statute and policy because there is insufficient evidence that the project will actually restrict wildlife movement or increase

habitat fragmentation within the portion of the lower Arroyo Burro watershed located within the coastal zone for the reasons set out in the 2008 Final EIR and the June 17, 2008 Council Agenda Report.

5. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation for the reasons set out in the 2008 Final EIR and the June 17, 2008 Council Agenda Report.
6. Notice of Coastal Development Permit Time Limits. The City Council's action approving the Coastal Development Permit shall expire two (2) years from the date of approval, per Santa Barbara Municipal Code Sec. 28.45.009.q, unless:
  - a. Otherwise explicitly modified by conditions of approval of the development permit, or unless construction or use of the development has commenced, or
  - b. A building permit for the work authorized by the Coastal Development Permit is issued prior to the expiration date of the approval.

A one (1) year time extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy. Not more than three (3) extensions may be granted.

**Section 2.** This resolution shall not take effect unless and until the Veronica Meadows Specific Plan Ordinance (City Ordinance No. \_\_\_\_ as introduced on June 17, 2008) has been duly adopted by this Council.